IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 212 OF 1990

Nandkumar Fakira Ashtekar..... ..... Appellant.

Versus

President, Satara City Municipal Council, Satara & Anr. .... Respondents.

Mr. C.S.Patil with Mr. I. S. Thakur for Appellant.

Mr. R. G. Ketkar for Respondent No.2.

CORAM : ANOOP V. MOHTA, J.

DATED : 9TH DECEMBER, 2005.

P.C. :

The present second appeal is filed by the original plaintiff, whose Civil Suit No.517 of 1980 was decreed by an order dated 19th November, 1984 passed by the 2nd Joint Civil Judge, Junior Division, Satara, whereby, the transfer order dated 24th November, 1980 passed by respondent No.1 transferring the services of the plaintiff / appellant from School Board to Municipality was held to be illegal and void. However, the Additional District Judge, Satara by an order dated 12th December, 1989 allowed the Regular

Civil Appeal No. 72 of 1986 filed by the original Defendant No.2 and the trial Court judgment and decree was set aside and dismissed the suit. Therefore, this second appeal by the original plaintiff / appellant.

2. The transfer of any of the employee is always a matter of administration and there is nothing wrong which need to be looked into unless the same is perverse and/or bad in law. In the present case, admittedly, the impugned order of transfer is dated 24th November, 1980. In the second appeal, now there is no point in considering the merits of the transfer order in question. There is no perversity as such which can be borne out or pointed out by the appellant, which need to be interfered with the finding given by the appellate court based on the material available on the record.

3. The ad-interim relief was granted by this court on 4th June, 1990. By an order dated 20th November, 2002 the civil application No. 1585 of 1990 for interim relief was allowed. In the result, the impugned judgment and order dated 12th December, 1984 passed by the Additional District Judge, Satara has been stayed and the respondent No.1 / Municipal Council has been

restrained from transferring or reverting the appellant from his present post of Senior Clerk under the School Board, Satara.

4. By an affidavit dated 8th October, 2003, the respondent No.2 urged that the transfer order dated 24th November, 1980 was served upon the appellant on 25th November, 1980. The suit was filed on 25th November, 1980. As there was no interim order or injunction the transfer was effected. In the result, the respondent No.2 joined the duty in place of the appellant. In this process, the Administrative Office of the Municipal School Board reverted the appellant on the post of Junior Clerk.

5. The matter was adjourned from time to time. The advocate appearing for the appellant is unable to make any statement for want of instructions.

6. Taking this all into account, I am not inclined to interfere with such matter of transfer at this stage in the fact and circumstances of the case, specially, after 25 years of the impugned order of transfer. In view of this, there is no case made out to answer the substantial question of law as raised.

7. Keeping all points open, so far as the appellant is concerned, the present second appeal is dismissed with no order as to costs.

Sd/-

(ANOOP V. MOHTA, J.)